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OGC Has Reviewed

15 May 1956

MEMORANDUM FOR: Deputy General Counsel

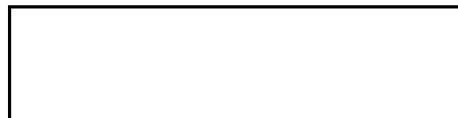
SUBJECT: Application of the Eight Hour Law to a Services
Contract to be Performed in a Foreign Country

1. You have requested my opinion as to whether or not the provisions of the Eight Hour Law must be incorporated in a services contract for the "repair of technical equipment" to be performed in a foreign country.

2. The Eight Hour Law of 1912 as amended (40 USCA 324 et. seq.) provides that every contract to which the United States is a party, requiring or involving the employment of laborers or mechanics, must contain a provision that no laborer or mechanic performing any of the work contemplated by the contract shall be required or permitted to work more than eight hours a day, except on the basis of compensation computed at the rate of one and one-half times the hourly rate for all time in excess of eight hours; and that the contract shall stipulate a penalty of five dollars for each and every violation.

3. This statutory provision, regulating the conditions of employment of certain specified types of workers, has been construed as applying to Government contracts for the repair of office machines and other equipment, when the work is to be performed in whole or in part by employees of the contractor and which do not involve the performance of services wholly by the contractor in person. (18 Comp. Gen. 337, 342). Although the particular contract with which you are concerned may be of the type which, according to this interpretation must contain the applicable contract provision, the annotations under Section 325 of Title 40 indicate that the Supreme Court has concluded, on the basis of legislative history, that the Act did not apply to contracts to be performed in a foreign country. *Foley Bros. v. Filardo*, 336 U.S. 281, 93 L. Ed. 364 is cited. In this circumstance, I believe you may consider the contract as exempt from the requirements of the Eight Hour Law.

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Assistant General Counsel

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